IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3693 of 2006
With
CIVIL APPLICATION No. 11172 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.S.SHAH
HONOURABLE MR.JUSTICE K.M.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION - Appellant(s)
Versus
RAJESHBHAI BHAILALBHAI PATEL & 1 - Defendant(s)

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Appearance :
MR HS MUNSHAW for Appellant(s) : 1,
MR MTM HAKIM for Defendant(s) : 1,
None for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.S.SHAH

and

HONOURABLE MR.JUSTICE K.M.MEHTA

Date : 03/10/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE M.S.SHAH)

This appeal under Section 173 of the Motor Vehicle Act, 1988 is directed against the judgement and award dated 6.9.2004 passed by the Motor Accident Claims Tribunal (Main), Vadodara, in Motor Accident Claims Petition No. 1680 of 1996 awarding compensation of Rs. 5,03,700/- with interest and costs to the respondent – original claimant on account of injuries sustained by the claimant in a motor vehicular accident between the bus belonging to the appellant Corporation and the motor cycle on which the claimant was travelling as pillion rider. The major heads under which the Tribunal has made the above award are as under:

1	Compensation for loss of future income /earning capacity	Rs. 1,51,200/-
2	Compensation for loss of past income	Rs. 7,500/-
3.	Compensation for pain, shock, suffering and loss of amenities of life	Rs. 25,000/-
4.	Compensation for medical expenses and treatment	Rs. 3,00,000/-
5.	Compensation for attendant charges, special diet, transportation etc.	Rs. 20,000/-
	Total compensation	Rs. 5,03,700/-

2. Mr. H.S. Munshaw, learned advocate and Mr. Barot, learned advocate for the appellant Corporation have challenged the findings given by the Tribunal on the question of negligence and on the question of quantum of compensation.

3. The question of negligence has already been examined by us in our separate judgement rendered today in accompanying petition No. F.A. No. 3694 of 2006. For the reasons recorded therein we confirm the findings of the Tribunal that the accident in question was caused by the sole negligence of the driver of the S.T. Bus.

4. Coming to the question of quantum of compensation, we find that the major head under which the compensation has been awarded is compensation for medical expenses and treatment being a sum of Rs. 3 lakhs. Documentary evidence on record produced by the claimant clearly shows that bills for Rs. 2,87,000/- have been produced by the claimant and therefore, the amount of Rs. 3 lakhs awarded by the Tribunal under the head of compensation for medical expenses and treatment is just and reasonable. The other major head of compensation is for loss of future income/earning capacity at Rs. 1,51,200/-. Since the Tribunal has assessed the actual income of the claimant at only Rs. 1,500/- per month and prospective income at Rs. 2,250/- per month in the case of claimant who is an agriculturist and was aged 26 years on the date of the accident, we are of the view that computation of compensation for loss of future income/earning capacity by taking into account the prospective income of the claimant at Rs. 2,250/- is eminently just and proper having regard to the fact that the Doctor has assessed the functional

disability of the claimant at 35%. The amount worked out by the Tribunal at Rs. 1,51,200 [2,250/- x 35% x 12 x 16] is in conformity with the settled legal principles and the evidence on record.

5. We, therefore, do not find any substance in any of the contentions urged on behalf of the appellant Corporation. The appeal is, therefore, summarily dismissed.

6. Since the appeal is dismissed, the Civil Application for stay is also rejected.

(M.S. SHAH, J)

(K.M. MEHTA, J)

(pkn)